



JON M. HUNTSMAN, JR.  
Governor

GARY R. HERBERT  
Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

April 17, 2008

Kent Butters  
C. E. Butters Realty and Construction  
760 North Highway 89  
Harrisville, Utah 84404

Subject: Requirement to Submit Notice of Intention to Commence Large Mining Operations, C. E. Butters Realty and Construction, Towers Mine, S0570004, Weber County, Utah

Dear Mr. Butters:

On January 10, 2007, and again on April 9, 2008, representatives from the Division inspected the Towers Sand and Gravel Mine referenced above. After the January 2007 inspection, the Division sent you a certified letter including the following requirement:

Within 60 days you must provide a revised "Notice of Intent" that covers the full extent of your mining operations. Depending upon the information received in your revised notice, you may be required to provide additional reclamation surety.

The Division has not received the revised Notice of Intent (NOI) and hereby reiterates this requirement. By June 16, 2008, the Division must receive a revised NOI showing the full extent of your mining operations. Assuming the area where "mining operations" are being conducted is greater than five acres, the revised NOI must consist of a notice of intention to commence large mining operations. **Failure to comply with this requirement may result in issuance of a cessation order which could require all mining operations to be terminated.** Once the Division has received this information, it may be necessary to require an interim reclamation surety.

The Division's GIS specialist, Dan Smith, used an aerial photo and estimated the size of the disturbed area to be about 55 acres. While not all of this area is probably being used for "mining operations" as defined in rule R647-1-106 "Definitions," it appears the area being mined is larger than five acres. For your reference, the definition of "mining operations" is:

... those activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including, but not limited to, surface mining and the surface effects of underground and in situ mining; on-site transportation



concentrating, milling, evaporation, and other primary processing. "Mining operation" does not include: the extraction of sand, gravel, and rock aggregate; the extraction of oil and gas; the extraction of geothermal steam; smelting or refining operations; off-site operations and transportation; reconnaissance activities; or activities which will not cause significant surface resource disturbance and do not involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

Please note that this definition includes on-site primary processing, such as crushing and screening, and would also include roads and the scales and scale house associated with the mine. Extraction of clay is considered to be mining, but mining of sand and gravel, which are defined as unconsolidated or moderately consolidated materials within certain size ranges and which were deposited by sedimentary processes, is not regulated.

We anticipate you will have questions about the requirements of this letter and encourage you to schedule a meeting to discuss these issues. My telephone number is 801-538-5258, or you may contact Paul Baker at 801-538-5261. Thank you for your cooperation.

Sincerely,



Susan M. White  
Mining Program Coordinator  
Minerals Regulatory Program



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## Inspection Report

Supervisor 47

### Minerals Regulatory Program

Date of Report: 04/04/2008

**Mine Name:** Towers Sand and Gravel  
**Operator Name:** C. E. Butters Realty and Construction

**Permit number:** S0570004  
**Inspection Date:** April 9, 2008  
**Time:** about 11:30 AM to 1:30 PM

**Inspector(s):** Paul Baker  
**Other Participants:** Bill Howell (Butters Construction)  
**Mine Status:** Active

**Weather:** Mostly cloudy, 40-50s, blustery

#### Elements of Inspection

	Evaluated	Comment	Enforcement
1. Permits, Revisions, Transfer, Bonds	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Public Safety (shafts, adits, trash, signs, highwalls)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Protection of Drainages / Erosion Control	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Deleterious Material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Roads (maintenance, surfacing, dust control, safety)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Concurrent Reclamation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Backfilling/Grading (trenches, pits, roads, highwalls, shafts, drill holes)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Water Impoundments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Soils	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Revegetation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Other	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### Purpose of Inspection:

This was a routine inspection.

#### Inspection Summary:

##### 1. Permits, Revisions, Transfer, Bonds

On November 29, 2006, the operator requested that the site be released on the basis that it is a sand and gravel operation, but in a letter dated January 17, 2007, the Division denied this request. The operator is mining bedrock, and there is also an area from which clay had been extracted. The letter said the operation may have exceeded the five-acre limit for a small mine and required that the operator submit information identifying the full extent of the mining operation within 60 days. Subsequently a Notice of Intention to Commence Small Mining Operations was submitted and approved together with a surety in the amount of \$18,600.00 for a five-acre operation. This approval was sent March 15, 2007.

##### 9. Soils



I did not see any soil stockpiles.

#### 12. Other

The operator is mining some unconsolidated alluvial sand and gravel, but as far as I could determine, it appeared the majority of the operation is in consolidated or partially consolidated rock that was not deposited by sedimentary processes. Photo 5 shows one type of deposit being mined. Near the surface, the rock is weathered and may not be fully consolidated, but it becomes more intact with depth.

There are some parts of the mine where the operator is extracting material meeting the definitions of sand and gravel in the rules. Extraction of this size and nature of material is exempt from regulation by the Division.

There is an area above the main part of the mine from which clay has been extracted (Photo 1).

I had intended to use a GPS to map the site but decided not to do this after seeing the size of the operation. It is clearly larger than five acres, but the actual size will depend on whether areas where sand and gravel are being mined are included within the permitted area.

The Division's GIS specialist, Dan Smith, estimated the size of the disturbed area using an aerial photo.

#### **Conclusions and Recommendations:**

The operator needs to salvage soil in all new disturbed areas.

The clay pit needs to be included as part of the disturbed area.

The report for an inspection conducted January 10, 2007, says:

... a significant portion of the site should now be considered a mining operation. Not only was bedded rock material exposed, it was being actively quarried, crushed and screened. Inspectors were told that most of this finished product was being used for the light rail commuter train project (ballast). A large pile of sub-grade material was on site. The inspectors were also shown an area (less than 1 acre) where the operator had been extracting clay for a local brick manufacturer (this would also require a permit).

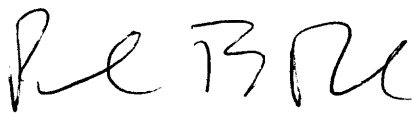
The report also said the area may now have exceeded five acres and that a Notice of Intention to Commence Large Mining Operations may be warranted.

I agree with the conclusions of this report. Although the operator is mining some alluvial sand and gravel, the majority of the site has exposed highwalls which are clearly consolidated rock. At and near the surface, the rock is weathered to the point that it is not always fully consolidated, but this rock was not deposited by sedimentary process, does not meet the size criteria for gravel, and is not in a matrix of alluvial sand and gravel as would be required for rock aggregate.

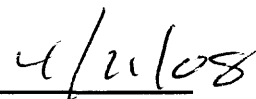
The Division should send a letter giving the operator a deadline for submitting a Notice of Intention to Commence Large Mining Operations. All of the crushing and screening operations and the scale house need to be included in the disturbed area. It may be possible to exclude areas being mined strictly for sand and gravel.

The Division also needs to consider whether an interim bond is required, but this should be based on the size of the area where mining operations are occurring which is unknown at this time.

Inspector's Signature



Date:



PBB:pb

cc: Kent Butters, CE Butters

Attachment: Photos

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**Photo 1.** Clay pit—about one acre—to the north of the main part of the mine.



**Photo 2.** Overview of some of the crushing and screening operations.



**Photo 3.** A portion of the highwall and adjacent pad.



**Photo 4.** Near the center of the photo is a scale house on a different level than the pad. To the right of the scale house is a large pile of gravel and smaller-sized material.





Photo 5. The highwall. Note that it is nearly vertical.



Photo 6. Another view of the highwall. This is clearly not sand and gravel.



Photo 7. This shows an area from which the operator is mining sand.



Photo 8. Another view of the crushing and screening operations and the highwall.